

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT AND TUSTIN UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015071129

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING

On August 14, 2015, the parties filed a joint request with the Office of Administrative Hearings to continue the dates in this matter to January 19 – 21, 2016, but failed to give to give any reason for the continuance in excess of 90 days as the hearing is presently scheduled to commence on September 8, 2016. OAH denied the parties' continuance the same day. On August 18, 2015, the parties filed a second continuance request, which set forth the reasons for the continuance in excess of 90 days, due to calendar conflicts of the parties' legal counsel and the calendar of the two school districts.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The parties established good cause in this matter in excess of 90 days due to calendar conflicts of the parties' legal counsel and the calendar of the two school districts. This matter will be set as follows:

Mediation:	October 7, 2015, at 9:30 AM
Prehearing Conference:	January 8, 2016, at 10:00 AM
Due Process Hearing:	January 19, 2016, at 1:30 PM, January 20 and 21, 2016, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The matter is assigned to Administrative Law Judge Robert Helfand.

IT IS SO ORDERED.

DATE: August 18, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings